



Tel.: (512) 418-0376
Fax: (781) 394-6428
Email: hsiegel@ip.net

Howard J. Siegel
Vice President of External Affairs and Regulatory Policy
IP Communications
9430 Research Blvd.
Echelon II, Suite 340
Austin, Texas 78759

May 10, 2002

Jack Forsythe, Chief
Consumer Information Bureau
Consumer Information Network Division
Federal Communications Commission
445 12th Street, SW, Room 5A-820
Washington D.C. 20554

Re: Response to Complaint Regarding Conduct of Southwestern Bell Telephone Company

File No.: IC # W2692338; NOIC

Dear Mr. Forsythe:

IP Communications ("IP") is in receipt of the above-referenced complaint from Mr. Kirby Van Horn and appreciates the opportunity to respond. First, IP would note that this is the only complaint referred to IP by the FCC in its over two years of operation. Second, IP notes that this file number has been "bounced" around to some extent: first being forwarded to SBC Advanced Solutions, Inc. and now to IP. As discussed below, because the text of the complaint shows that the concerns of the complaint have been misdirected to IP, IP is providing this response approximately two weeks early to minimize any delay to the resolution of Mr. Van Horn's concerns.

The text of the complaint from Mr. Van Horn as forwarded to IP from the Commission states in full as follows:

Southwestern Bell has stolen my DSL pair for the third time to give it to someone else. My Internet provider is Everyones Internet. They contract with IP Communications for dsl service. IP Communications in turn contracts with Southwestern Bell for DSL line service. What is

happening is that the SWB line installers are too lazy to come up with a new pair to fix one of their own dsl subscribers noisy line/or they have a new customer with no readily available dsl line. So they just steal my pair and give it to someone else-no notification, nothing-just a dead line because it is not hooked up to anything!!! I called EV1, they got IP Communication on the line, we conducted a shorting test to see if IP could see it but they could not (Just like the last 2 times SWB did this to me!). The line was stolen approx 930 AM on 14 MAR 02(This time). The SWB Tech admitted to me that they had stolen my pair the last two times, so I am forced to believe that they stole my pair again. When IP Communications accesses my line they hear unknown DSL signals on my line (which at my home is COMPLETELY DEAD!!!)

What is clear from the complaint is that the complaint is not a complaint against IP or SBC Advanced Solutions, Inc. Instead, it is a complaint against Southwestern Bell Telephone Company ("SWBT") for alleged discriminatory, anticompetitive, and end-user affecting conduct of a most serious nature.

Given that IP only has access to information from its side of the business relationship with SWBT, IP cannot confirm every statement in Mr. Van Horn's complaint against SWBT. That said, IP has researched the trouble history on Mr. Van Horn's line and can confirm portions of Mr. Van Horn's complaint. It is true that there were a number of troubles on Mr. Van Horn's line from what was determined to be SWBT loop failures (three times in less than six months). This trouble history and that on others does give credibility to Mr. Van Horn's concerns. SWBT has suggested various loop failures are to blame rather than "stealing". IP cannot confirm those statements from SWBT.

That said, IP cannot confirm the specific allegations that Mr. Van Horn's good working line was repeatedly "stolen" although Mr. Van Horn does suggest that there are admissions of that fact from a SWBT technician. It may very well be that an investigation is necessary to fully understand the underlying network issues that led to the Van Horn Complaint. For example, is it possible that customers are being rerouted to different copper loop plant as part of the deployment of SBC's Project Pronto? If yes, does such rerouting lead to longer, dirty loops? Does it lessen overall copper plant available for central office-based DSL? Is it possible that SWBT has scaled back its maintenance on copper plant as part of an overall corporate policy to obsolete copper longer than 12,000 feet and force the remainder of the network on copper-fiber hybrid? IP cannot answer these questions. That said, the discriminatory and anticompetitive possibilities are vast and have could have a direct affect on numerous proceedings before this Commission.

Again, IP appreciates the opportunity to respond to the Van Horn Complaint and, as stated above, has expedited this response to mitigate any delay in resolving Mr. Van Horn's specific concerns as well as the larger competitive concerns that may be implicated. Because the clear text of the Van Horn Complaint in no way raises any

complaint against IP, IP does request that the FCC's records be updated to show that this is not a complaint against IP. IP also requests confirmation of such a records change so IP can again state that it has never had a complaint filed against it at the Commission. Finally, because the Van Horn Complaint against SWBT does involve a customer served over IP's network, IP does request that the consumer complaint division keep IP informed as the division's investigation progresses.

Thank you for the opportunity to respond to this complaint. If you have any questions, please do not hesitate to contact me.

Sincerely,

Howard Siegel
Vice President of External Affairs and
Regulatory Policy

CC: CC Docket No. 01-337
CC Docket No. 01-338
CC Docket No. 02-33
Mr. Kirby Van Horn